

Section 5.6

Violations Discovered at Hearing

New violations discovered	What can an Advocate do in a hearing where the Respondent introduces evidence, <i>as a defense</i> , that supports or indicates additional violations by the Respondent that were not known and not included in the present Notice of Proposed Action (NOPA) allegations?
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Background	On rare occasions, the Respondent might present evidence at a hearing which, if found to be true, tends to clear the Respondent of the violation charged, or, supports a different or new violation.
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Response	<p>At the hearing, the Advocate may request that the Hearing Officer drop a charge, in the interest of fairness, based upon new information. In the alternative, the Hearing Officer may make a finding that the county did not prove its case regarding a particular charge.</p> <p>After the hearing, if the county agricultural commissioner (CAC) wishes to bring charges of new or additional violations against the Respondent, the CAC must prepare a new NOPA and start the process over from the beginning (mailing or providing the new complete NOPA package to the Respondent and awaiting his/her response).</p> <p>In addition, if the Respondent is “cleared” by the Hearing Officer of the charge on the original NOPA, the CAC may issue a Violation Notice based on the evidence of the new violation that the Respondent presented at the Hearing.</p>
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